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GOVERNOR


STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



MICHAEL P. FLANAGAN
SUPERINTENDENT OF
PUBLIC INSTRUCTION

MEMORANDUM

To: Local Education Agencies Directors of Special Education, Public School Academies, Institutions of Higher Education, SEAC, Parent and Advocacy Organizations and Other Interested Parties

From: Beth A. Steenwyk  Deputy Director
Office of Special Education and Early Intervention Services

Date: October 6, 2006

Subject: Due Process Complaints

Changes in the Due Process Complaint system were implemented on July 1, 2006. Questions have been raised regarding what to do when a due process complaint is filed. The Office of Special Education and Early Intervention Services (OSE/EIS) and State Office of Administrative Hearings and Rules (SOAHR) and staff are working diligently to make this new process effective for everyone involved. We hope that the following information is helpful.

The Emergency Rules regarding due process complaints state that a hearing may be initiated by *"filing a written due process hearing complaint with the Department of Education... and by providing a copy of the due process hearing complaint to the other parties..."*

If a parent wants to file a due process complaint, the OSE/EIS will consider the due process complaint to be properly "filed" when both the Local Education Agency (LEA) and the OSE/EIS have received the complaint/notice. Therefore:

- a. If the LEA received the complaint **before** the OSE/EIS receives it, the due process complaint will be considered to be filed on the date that the OSE/EIS receives the complaint from the parent.
- b. If the LEA **did not receive** the due process complaint before the OSE/EIS receives it, the complaint will be considered to be filed **on the date the LEA receives** it, from the parent/attorney representing the parent.

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Please note, as a courtesy the OSE/EIS will do the following:

1. Send a letter to the parent/attorney representing the parent informing them that the OSE/EIS has received their complaint, and remind them that they must provide the LEA notice/copy of the complaint, if they have not already done so. The LEA will be sent a copy of the letter;
2. Call the LEA when we receive a complaint. The phone call to the LEA is not formal notice. The rules require that the parent/attorney representing the parent provide the LEA ("other parties") notice/a copy of the complaint;
3. Request that the LEA call the OSE/EIS to let us know when they receive a due process complaint. This call is also a courtesy and is not formal notice to OSE/EIS. **Please call Harvalee Saunto at (517) 241-7507;** and
4. Suggest that the LEA remind the parent that the parent must file a copy of the complaint with the OSE/EIS.

BAS:HS/ys

cc: Intermediate School District Directors of Special Education

OSE/EIS 06-25